

Updated for the 2014 Legislative Session, includes any amendments adopted to date.

**FISCAL NOTE**  
**LEGISLATIVE FISCAL ANALYST ESTIMATE**

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates)				
	<b>FY 2014-15</b>		<b>FY 2015-16</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS				See Below
CASH FUNDS		See Below		See Below
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS		See Below		See Below

**Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.**

LB 402, as amended by AM 684 and AM 740, amends Nebraska Revised Statutes dealing with community-based energy development (C-BED) projects.

The bill amends Section 70-1903 to change the definition of project to also include, in addition to wind, solar, biomass or landfill gas as a fuel source and therefore, qualify as a C-BED project; changes to 25% the amount of payments to qualified owners or the local community; strikes the definition of debt financing; changes the gross definition of gross power purchase agreement payments to the first twenty years of the agreement and not the life of the agreement; provides that payments to the local community would now include construction costs, lease and easement payments, construction material payments, and parts payments; and now allows a corporation to be a qualified owner and removes the restrictions as to how much of the project may be owned by a single owner.

Section 70-1904 is amended to strike language referring to qualified owners working with an equity partner and the transfer of a C-BED project to a person other than a qualified owner.

Section 77-2704.57 is amended to add the new definitions in Section 70-1903 regarding gross power agreement payments and qualified owner; strikes the language referring to the ownership structure, the local resolution of support, debt financing, qualified owner, percentage of ownership, the definition of new wind energy project, gross power purchase agreement payments, and the payments to the local community.

The Department of Revenue has indicated that the fiscal impact of LB 402 depends in part on future congressional action on the federal wind energy Production Tax Credit and they assume one wind project will be built in 2013. This assumption is based on information from the Nebraska Energy Office, with ongoing capital replacement expenses based on data from the National Renewable Energy Laboratory. The estimate is based on prior wind projects of comparable size. The Department expects that wind farms will be constructed in 3 to 5 year increments thereafter, but precise construction dates are unknown.

**NOTE:** As of the date of this revision no action has been taken on the federal Production Tax Credit. Assuming Congress does not re-authorize the credit, the fiscal impact of LB 402 is likely to be substantially less than what is indicated in the original (Rev02) fiscal note. In addition, with the passage of LB 104 (2013) which allows wind energy production facilities to utilize the Nebraska Advantage Act, it is our assumption that only smaller projects (less than 25 megawatts) would utilize the provisions of LB 402. Based on information from the Nebraska Energy Office, the potential fiscal impact could be approximately \$1.06 million for FY14-15. If the Production Tax Credit is re-authorized we believe the fiscal impact estimate indicated below still holds.

The Department also assumes that future wind farm projects will procure materials from Nebraska-domiciled businesses which are qualifying payments to the local community.

We disagree with the Department of Revenue's estimate as to the assumption regarding the size of a possible project and when such a project will occur. We are assuming a somewhat smaller project occurring no sooner than the second year of the biennium and, therefore, estimate the following fiscal impact:

LB402(3) CONTINUED

Fiscal Year:	General Fund:	State Highway Capital Improvement Fund (Cash):	Highway Allocation Fund (Local Cash):	Total:
2014-15:	\$ 0	\$ 0	\$ 0	\$ 0
2015-16:	(\$6,446,000)	(\$255,000)	(\$40,200)	(\$6,741,200)
2016-17:	(\$ 95,000)	(\$ 3,000)	(\$ 680)	(\$ 98,680)
2017-18:	(\$ 95,000)	(\$ 3,000)	(\$ 680)	(\$ 98,680)

The cost to implement LB 402 is expected to be minimal.

The Department of Revenue issued a revised fiscal note during the 2013 Legislative Session based on the assumption that at least two 75 megawatt wind projects will be built in 2013 with ongoing capital replacement expenses and estimated the following fiscal impact:

Fiscal Year:	General Fund:	State Highway Capital Improvement Fund (Cash):	Highway Allocation Fund (Local Cash):	Total:
2013-14:	(\$11,222,000)	(\$455,000)	(\$80,000)	(\$11,757,000)
2014-15:	(\$ 164,000)	(\$ 7,000)	(\$ 1,000)	(\$ 172,000)
2015-16:	(\$ 164,000)	(\$ 7,000)	(\$ 1,000)	(\$ 172,000)
2016-17:	(\$ 164,000)	(\$ 7,000)	(\$ 1,000)	(\$ 172,000)

As noted above, we continue to disagree with the Department's estimate of fiscal impact based on the assumption regarding the size, timing, and number of projects.

**IMPACT TO POLITICAL SUBDIVISIONS:**

The Highway Allocation Fund will be impacted as follows:

FY2014-15:	\$ 0
FY2015-16:	(\$ 40,200)
FY2016-17:	(\$ 680)
FY2017-18:	(\$ 680)